

Message Text

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21

ORIGIN EA-09

INFO OCT-01 ISO-00 PM-04 NSC-05 SP-02 SS-15 CIAE-00 INR-07

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DRAFTED BY EA/PHL:ASWIFT:JAK

APPROVED BY EA/PHL:BAFLECK

ISA/PHL:KBLEAKLEY

OSD/ISA:SGOLDSMITH

PM/ISO:JSCOTT

L/EA:PNORTON

----- 085486

R 032315Z SEP 75

FM SECSTATE WASHDC

TO AMEMBASSY MANILA

INFO CINCPAC HONOLULU HI

CINCPACAF HICKAM AFB

CINCPACFLT MAKALAPA HI

CINCPACREPPHIL SUBIC BAY

/NAVLEGSVCOFF SUBIC BAY RP

CASF WASHDC

NAVY JAG WASHDC

C O N F I D E N T I A L STATE 209583

E.O. 11652: GDS

TAGS: MMOL, MARR, RP

SUBJECT: TAX OF NON-APPROPRIATED NUND (NAF) VEHICLES
BY GOP

REF: MANILA 10480 310856Z JUL 75

1. CONCUR YOUR APPROACH IN PARA 7 REFTELWM GOP ATTEMPTED
SIMILAR TAX IMPOSITION IN 1969. VEHICLES AT SUBIC AND
CLARK CONSIDERED EXEMPT FROM IMPOSITION OF SUCH TAXES UNDER
ARTICLE V, MBA. GOP ERRONEOUSLY INTER
PRETS MBA AS PERMITT-
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ING IMPOSITION OF TAXES ON VEHICLES WHICH RE NOT QTE

INDISPENSABLE IN THE CONSTRUCTION, MAINTENANCE, OPERATION OR DEFENSE OF THE BASES END QTE. THIS INTERPRETATION IS COMPLETELY DIFFERENT FROM THE WORDING OF ARTICLE V TO WHICH THE GOP LETTERS DO NOT REFER. ARTICLE V EXEMPTS FROM TAXATION QTE MATERIAL, EQUIPMENT, SUPPLIES, OR GOODS END QTE FOR QTE THE EXCLUSIVE USE IN THE CONSTRUCTION, MAINTENANCE, OPERATION OR DEFENSE OF THE BASES. END QTE VEHICLES HAVE BEEN REGARDED FOR 28 YEARS AS COMING UNDER THIS PROVISION. THE GOP INTERJECTION OF QTE INDISPENSABILITY END QTE OF THE VEHICLE AS THE TEST OF ITS TAXABLE STATUS IS THUS AT COMPLETE VARIANCE WITH THE WORDING OF THE MBA.

2. ARTICLE VGN MBA, IS CONSIDERED TO EXEMPT NOT ONLY THOSE NAF VEHICLES USED IN DIRECT SUPPORT OF NAF ACTIVITIES, BUT ALSO THOSE OWNED BY NAF ACTIVITIES FOR RENTALS TO OTHER ACTIVITIES OR TO INDIVIDUAL SERVICEMEN FOR USE BOTH ON AND OFF BASE. HOWEVER, METERED TAXI SERVICES, BUS SERVICES, OR RENTAL SERVICES OPERATED BY PRIVATE CONCESSIONAIRES UNDER CONTRACT TO NAF ACTIVITIES, SUCH AS THE GUERRERO TAXI SERVICE AT SUBIC, ARE NOT EXEMPT UNDER ARTICLE V, INASMUCH AS THE VEHICLES ARE PRIVATELY OWNED AND NOT QTE CONSIGNED TO, OR DESTINED FOR, THE U.S. AUTHORITIES END QTE. REAL DISTINCTION IS BETWEEN USG VEHICLES, WHETHER NAF OR NOT, AND VEHICLES OPERATED BY PRIVATE PHILIPPINE CONCESSIONAIRES.

3. UNDERSTANDING HERE IS THAT THESE PRIVATE CONCESSION-AIRE OPERATIONS ARE NOW SUBJECT TO THE NOMINAL LICENSE PLATE FEES BUT NOT TO THE REGISTRATION FEES WHICH GOP SEEKS TO IMPOSE NOR TO CUSTOMS OR DUTIES ON VEHICLES IMPORTED FOR SUCH OPERATIONS. IF GOP INTENT WERE LIMITED TO REQUIRING REGISTRATION FEE FOR PHILIPPINE OWNED CONCESSION-AIRE VEHICLES, WE WOULD HAVE DIFFICULTY CLAIMING EXEMPTION UNDER ARTICLE V OXMBA EXCEPT ON BASIS OF PRECEDENT ALREADY ESTABLISHED.

4. HOP ISSUES RAISED IN LAND TRANSPORTATION COMMISSION LETTERS CAN BE SOLVED INFORMALLY DURING CONSULTATIONS WITH GOP OFFICIALS AS REQUESTED IN EMBASSY NOTE TO DFA
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(REF A). SHOULD GOP WISH TO PRESS QUEST ON, WE BELIEVE IT WOULD THEN BEST BE RESOLVED IN THE CONTEXT OF THE MBA NEGOTIATIONS RATHER THAN AS AN ISOLATED MATTER. ROBINSON

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